

State of Arizona  
Senate  
Forty-fifth Legislature  
First Regular Session  
2001

CHAPTER 218

**SENATE BILL 1072**

AN ACT

AMENDING SECTION 8-825, ARIZONA REVISED STATUTES; AMENDING TITLE 8, CHAPTER 10, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 8-829; AMENDING SECTIONS 8-841, 8-843, 8-845, 8-846, 8-847, 8-861, 8-862, 8-864 AND 36-2901, ARIZONA REVISED STATUTES; RELATING TO DEPENDENT CHILDREN.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 8-825, Arizona Revised Statutes, is amended to  
3 read:

4 8-825. Court determinations in preliminary protective hearing

5 A. The court's determination in the preliminary protective hearing may  
6 be based on evidence that is hearsay, in whole or in part, in the following  
7 forms:

8 1. The allegations of the petition.

9 2. An affidavit.

10 3. Sworn testimony.

11 4. The written reports of expert witnesses.

12 5. The department's written reports if the protective services worker  
13 is present and available for cross-examination.

14 6. Documentary evidence without foundation if there is a substantial  
15 basis for believing the foundation will be available at the dependency  
16 hearing and the document is otherwise admissible.

17 7. The testimony of a witness concerning the declarations of another  
18 person if the evidence is cumulative or there is a reasonable ground to  
19 believe that the other person will be personally available for trial.

20 B. The court shall determine whether temporary custody of the child  
21 is clearly necessary to prevent abuse or neglect pending the hearing on the  
22 dependency petition. The court:

23 1. On finding that the petitioner has not met the burden prescribed  
24 in section 8-824, subsection F, shall return the child to the child's parent,  
25 guardian or custodian pending the dependency hearing.

26 2. On finding that the petitioner has met the burden prescribed in  
27 section 8-824, subsection F, may declare the child a temporary ward of the  
28 court pending the dependency hearing.

29 C. The court shall also determine if reasonable efforts were made to  
30 prevent or eliminate the need for removal of a child from the child's home  
31 and if services are available that would eliminate the need for continued  
32 removal. If the child is:

33 1. In the custody of the department, the court shall order the  
34 department to make reasonable efforts to provide services to the child and  
35 parent to facilitate the reunification of the family, except as provided in  
36 ~~subsection D of this section~~ 8-846.

37 2. Not in the custody of the department and the department is not a  
38 party, the court may direct the parties to participate in reasonable services  
39 that will facilitate reunification of the family or another permanent plan  
40 for the child. The court shall not require the department to provide  
41 services pursuant to this paragraph.

42 ~~D. The court is not required to order the department to provide~~  
43 ~~services pursuant to subsection C, paragraph 1 of this section if the court~~

1 ~~finds that provision of these services is contrary to the best interests of~~  
2 ~~the child.~~

3 Sec. 2. Title 8, chapter 10, article 2, Arizona Revised Statutes, is  
4 amended by adding section 8-829, to read:

5 8-829. Judicial determinations; timing; documentation

6 A. IF A CHILD HAS BEEN REMOVED FROM THE CHILD'S HOME, THE COURT SHALL  
7 MAKE THE FOLLOWING DETERMINATIONS WITHIN THE FOLLOWING TIME PERIODS:

8 1. WHETHER CONTINUATION OF THE CHILD'S RESIDENCE IN THE HOME WOULD BE  
9 CONTRARY TO THE WELFARE OF THE CHILD SHALL BE MADE IN THE COURT'S FIRST ORDER  
10 THAT SANCTIONS THE REMOVAL. THIS ORDER MAY BE THE TEMPORARY ORDER THAT THE  
11 COURT ISSUES ON THE FILING OF A DEPENDENCY PETITION.

12 2. WHETHER REASONABLE EFFORTS HAVE BEEN MADE TO PREVENT REMOVAL OF THE  
13 CHILD OR IT WAS REASONABLE TO MAKE NO EFFORTS TO PREVENT REMOVAL OF THE CHILD  
14 SHALL BE MADE WITHIN SIXTY DAYS AFTER THE CHILD IS REMOVED FROM THE CHILD'S  
15 HOME.

16 3. WHETHER REASONABLE EFFORTS HAVE BEEN MADE TO FINALIZE THE EXISTING  
17 PERMANENCY PLAN SHALL BE MADE WITHIN TWELVE MONTHS AFTER THE CHILD IS REMOVED  
18 FROM THE CHILD'S HOME AND ONCE EVERY TWELVE MONTHS AFTER THAT DETERMINATION.

19 B. THE COURT SHALL MAKE EACH DETERMINATION DESCRIBED IN SUBSECTION A  
20 ON A CASE-BY-CASE BASIS AND SHALL SET FORTH IN ITS WRITTEN ORDER THE SPECIFIC  
21 FACTUAL BASIS FOR EACH DETERMINATION. IN MAKING ITS DETERMINATION, THE COURT  
22 SHALL CONSIDER DOCUMENTATION REASONABLY AVAILABLE AT THE TIME OF THE  
23 DETERMINATION.

24 Sec. 3. Section 8-841, Arizona Revised Statutes, is amended to read:

25 8-841. Dependency petition; service; preliminary orders

26 A. Any interested party may file a petition to commence proceedings  
27 in the juvenile court alleging that a child is dependent.

28 B. The petition shall be verified and shall contain all of the  
29 following:

30 1. The name, age and address, if any, of the child on whose behalf the  
31 petition is brought.

32 2. The names and addresses, if known, of both parents and any guardian  
33 of the child.

34 3. A concise statement of the facts to support the conclusion that the  
35 child is dependent.

36 4. If the child was taken into temporary custody, the date and time  
37 the child was taken into custody.

38 5. A statement whether the child is subject to the Indian child  
39 welfare act of 1978 (P.L. 95-608; 92 Stat. 3069; 25 United States Code  
40 sections 1901 through 1963).

41 C. The person who files the petition shall have the petition and a  
42 notice served on:

43 1. The parents and any guardian of the child.

44 2. The child's guardian ad litem or attorney.

1           3. Any person who has filed a petition to adopt or who has physical  
2 custody pursuant to a court order in a foster-adoptive placement.

3           D. The notice shall contain all of the following:

4           1. The name and address of the person to whom the notice is directed.

5           2. The date, time and place of the hearing on the petition.

6           3. The name of the child on whose behalf the petition has been filed.

7           4. A statement that the parent or guardian and the child are entitled  
8 to have an attorney present at the hearing and that, if the parent or  
9 guardian is indigent and cannot afford an attorney and wants to be  
10 represented by an attorney, one will be provided.

11          5. A statement that the hearing may result in further proceedings for  
12 permanent guardianship or to terminate parental rights.

13          E. The petition and notice shall be served on a parent or guardian as  
14 soon as possible after the petition is filed and at least five days before  
15 the initial dependency hearing if the parent or guardian did not attend the  
16 preliminary protective hearing. If a parent or guardian does attend the  
17 preliminary protective hearing, the petition and notice shall be served at  
18 the preliminary protective hearing.

19          F. ON THE FILING OF THE PETITION, THE COURT MAY ISSUE ANY TEMPORARY  
20 ORDERS NECESSARY TO PROVIDE FOR THE SAFETY AND WELFARE OF THE CHILD.

21          Sec. 4. Section 8-843, Arizona Revised Statutes, is amended to read:  
22          8-843. Initial dependency hearing; rights; determinations

23          A. At the initial dependency hearing, the court shall ensure that the  
24 parent or guardian has been advised of the following rights:

25           1. The right to counsel, including appointed counsel if the parent or  
26 guardian is indigent.

27           2. The right to trial by the court on the allegations in the petition.

28           3. The right to cross-examine all witnesses that are called to testify  
29 against the parent or guardian.

30           4. The right to use the process of the court to compel the attendance  
31 of witnesses.

32          B. If the parent or guardian admits or does not contest the  
33 allegations in the petition, the court shall determine that the parent or  
34 guardian understands the rights described in subsection A of this section and  
35 that the parent or guardian knowingly, intelligently and voluntarily waives  
36 these rights.

37          C. If the parent or guardian denies the allegations in the petition,  
38 the court shall set the settlement conference, pretrial conference or  
39 mediation prescribed in section 8-844.

40          D. The court shall also determine if reasonable efforts were made to  
41 prevent or eliminate the need for removal of a child from the child's home  
42 and if services are available that would eliminate the need for continued  
43 removal. If the child is:

1       1. In the custody of the department, the court shall order the  
2 department to make reasonable efforts to provide services to the child and  
3 parent to facilitate the reunification of the family, except as provided in  
4 ~~subsection E of this section 8-846.~~

5       2. Not in the custody of the department and the department is not a  
6 party, the court may direct the parties to participate in reasonable services  
7 that will facilitate reunification of the family or another permanent plan  
8 for the child. The court shall not require the department to provide  
9 services pursuant to this paragraph.

10       ~~E. The court is not required to order the department to provide~~  
11 ~~services pursuant to subsection D, paragraph 1 of this section if the court~~  
12 ~~finds that provision of these services is contrary to the best interests of~~  
13 ~~the child.~~

14       Sec. 5. Section 8-845, Arizona Revised Statutes, is amended to read:  
15       8-845. Disposition hearing

16       A. After receiving and considering the evidence on the proper  
17 disposition of the case, the court may enter orders awarding a dependent  
18 child as follows:

19       1. To the care of the child's parents, subject to the supervision of  
20 the department of economic security.

21       2. To a suitable institution.

22       3. To an association willing to receive the child.

23       4. To a reputable citizen of good moral character.

24       5. To an appropriate public or private agency licensed to care for  
25 children.

26       6. To a suitable school.

27       7. To maternal or paternal relatives, if they are physically and  
28 financially able to provide proper care.

29       8. To supervision under the independent living program established  
30 pursuant to section 8-521.

31       9. To any adult as a permanent guardian pursuant to article 5 of this  
32 chapter.

33       B. In reviewing the status of the child and in determining its order  
34 of disposition, the court shall consider the health and safety of the child  
35 as a paramount concern and the following criteria:

36       1. The goals of the placement and the appropriateness of the case  
37 plan.

38       2. The services that have been offered to reunite the family.

39       3. If returning the child home is not likely, the efforts that have  
40 been or should be made to evaluate or plan for other permanent placement  
41 plans.

42       C. THE COURT SHALL REVIEW THE PERMANENT PLAN THAT HAS BEEN ESTABLISHED  
43 FOR THE CHILD. In reviewing the status of the child, the court, insofar as  
44 possible, shall seek to reunite the family. If the court does not order

1 reunification of the family, the court shall order a plan of adoption or  
2 another permanent plan that is in the child's best interest.

3 D. Notwithstanding subsection C of this section, reasonable efforts  
4 to place a child for adoption may be made concurrently with reasonable  
5 efforts to reunify the family.

6 Sec. 6. Section 8-846, Arizona Revised Statutes, is amended to read:

7 8-846. Services provided to the child and family

8 A. Except as provided in subsection B of this section, if the court  
9 ~~orders continued removal of the child at the disposition hearing HAS BEEN~~  
10 ~~REMOVED FROM THE HOME~~, the court shall order the department to make  
11 reasonable efforts to provide services to the child and the child's parent  
12 to facilitate reunification of the family.

13 ~~B. If the court determines that efforts to reunify a child with the~~  
14 ~~child's parent or guardian would not be reasonable, the court is not required~~  
15 ~~to order reunification services. In addition to any other relevant factors,~~  
16 ~~the court shall consider the following factors in determining if~~  
17 ~~reunification efforts would be reasonable:~~

18 ~~1. Testimony by a competent professional that efforts to modify the~~  
19 ~~parent's or guardian's behavior are unlikely to be successful.~~

20 ~~2. Whether the parent or guardian has expressed an interest in~~  
21 ~~reunification with the child.~~

22 ~~C. B. A presumption exists that Reunification services should ARE not~~  
23 ~~REQUIRED TO be provided if the court finds by clear and convincing evidence~~  
24 ~~that any:~~

25 ~~1. ONE OR MORE of the following AGGRAVATING circumstances exists~~  
26 ~~EXIST:~~

27 ~~1. (a) A party to the action provides a verified affidavit that~~  
28 ~~states that a reasonably diligent search has failed to identify and locate~~  
29 ~~the parent within three months after the filing of the dependency petition~~  
30 ~~OR THE PARENT HAS EXPRESSED NO INTEREST IN REUNIFICATION WITH THE CHILD FOR~~  
31 ~~AT LEAST THREE MONTHS AFTER THE FILING OF THE DEPENDENCY PETITION.~~

32 ~~2. (b) The parent or guardian is suffering from a mental illness or~~  
33 ~~mental deficiency of such magnitude that it renders the parent or guardian~~  
34 ~~incapable of benefitting from the reunification services. This finding shall~~  
35 ~~be based on competent evidence from a psychologist or physician that~~  
36 ~~establishes that, even with the provision of reunification services, the~~  
37 ~~parent or guardian is unlikely to be capable of adequately caring for the~~  
38 ~~child within twelve months after the date of the disposition order CHILD'S~~  
39 ~~REMOVAL FROM THE HOME.~~

40 ~~3. (c) The child previously has been removed and adjudicated~~  
41 ~~dependent due to physical or sexual abuse. After the adjudication the child~~  
42 ~~was returned to the custody of the parent or guardian and then subsequently~~  
43 ~~removed within eighteen months due to additional physical or sexual abuse.~~

1       ~~4. The parent or guardian has been convicted of murder or manslaughter~~  
2 ~~of another child of the parent or guardian or of aiding or abetting or~~  
3 ~~attempting, conspiring or soliciting to commit murder or manslaughter of~~  
4 ~~another child of the parent.~~

5       ~~5.~~ (d) A child has suffered serious physical or emotional injury as  
6 defined in section 8-531 by the parent or guardian or by any person known by  
7 the parent or guardian, if the parent or guardian knew or reasonably should  
8 have known that the person was abusing the child.

9       ~~6.~~ (e) The parent's rights to another child have been terminated, the  
10 parent has not successfully addressed the issues that led to the termination  
11 and the parent is unable to discharge parental responsibilities.

12       ~~7.~~ (f) After a finding that a child is dependent, all of the  
13 following are true:

14       ~~(a)~~ (i) A child has been removed from the parent or guardian on at  
15 least two previous occasions.

16       ~~(b)~~ (ii) Reunification services were offered or provided to the  
17 parent or guardian after the removal.

18       ~~(c)~~ (iii) The parent or guardian is unable to discharge parental  
19 responsibilities.

20       2. THE PARENT OR GUARDIAN OF A CHILD HAS BEEN CONVICTED OF MURDER OR  
21 MANSLAUGHTER OF A CHILD OR OF SEXUAL ABUSE, SEXUAL ASSAULT OF A CHILD, SEXUAL  
22 CONDUCT WITH A MINOR, MOLESTATION OF A CHILD, COMMERCIAL SEXUAL EXPLOITATION  
23 OF A MINOR, SEXUAL EXPLOITATION OF A MINOR OR LURING A MINOR FOR SEXUAL  
24 EXPLOITATION.

25       3. THE PARENT OR GUARDIAN OF A CHILD HAS BEEN CONVICTED OF AIDING OR  
26 ABETTING OR ATTEMPTING, CONSPIRING OR SOLICITING TO COMMIT ANY OF THE CRIMES  
27 LISTED IN SUBSECTION B, PARAGRAPH 2 OF THIS SECTION.

28       Sec. 7. Section 8-847, Arizona Revised Statutes, is amended to read:  
29       8-847. Periodic review hearings

30       A. After the disposition hearing, the court shall hold periodic review  
31 hearings at least once every six months as required by federal law.

32       B. At a proceeding to review the disposition orders of the court, the  
33 court shall provide the following persons notice of the review and the right  
34 to participate in the proceeding:

35       1. The authorized agency charged with the child's care and custody.

36       2. Any foster parents in whose home the child resided within the last  
37 six months or resides at present, except for those foster parents who  
38 maintain a receiving foster home. The petitioner shall provide the court  
39 with the names and addresses of all foster parents who are entitled to notice  
40 pursuant to statute.

41       3. The child's parent or guardian unless the parental rights of that  
42 parent or guardian have been terminated by court action or unless the parent  
43 has relinquished rights to the child to an agency or has consented to the  
44 adoption of the child as provided in section 8-107.

1           4. The child, if twelve years of age or older.  
2           5. The child's relative, as defined in section 8-501, if that relative  
3 files a written notice of right of participation with the court.  
4           6. A person permitted by the court to intervene as a party in the  
5 dependency proceeding.  
6           7. A physical custodian of the child within the preceding six months.  
7           8. ANY PERSON WHO HAS FILED A PETITION TO ADOPT OR WHO HAS PHYSICAL  
8 CUSTODY PURSUANT TO A COURT ORDER IN A FOSTER-ADOPTIVE PLACEMENT.  
9           ~~8.~~ 9. Any other person as the court may direct.  
10          C. At any periodic review hearing, the court shall consider the health  
11 and safety of the child as a paramount concern.  
12          Sec. 8. Section 8-861, Arizona Revised Statutes, is amended to read:  
13          8-861. Return of child  
14          ~~A. The court shall hold an initial permanency hearing not more than~~  
15 ~~twelve months after the child was initially removed from the child's parent~~  
16 ~~or guardian.~~  
17          ~~B.~~ AFTER THE TEMPORARY CUSTODY HEARING, ON REQUEST OF A PARENT OR  
18 GUARDIAN the court shall order that the child be returned to the child's  
19 parent or guardian if the court finds by a preponderance of the evidence that  
20 the return of the child would not create a substantial risk of harm to the  
21 child's physical, mental or emotional health or safety. The court shall  
22 consider the failure of the parent or guardian to comply with the terms of  
23 the case plan as evidence that return of the child would create a substantial  
24 risk of harm to the child.  
25          ~~C. Except as provided in subsection D, if the child is not returned~~  
26 ~~to the child's parent or guardian at the initial permanency hearing, the~~  
27 ~~court shall:~~  
28           ~~1. Order the department to finalize a permanent plan.~~  
29           ~~2. Schedule a permanency hearing within one hundred twenty days after~~  
30 ~~the initial permanency hearing to make a determination regarding the most~~  
31 ~~appropriate final plan for the child.~~  
32           ~~3. Enter any other order that the court determines to be in the best~~  
33 ~~interests of the child including the termination of reunification services~~  
34 ~~for the parent or guardian.~~  
35          ~~D. The court may continue the initial permanency planning hearing for~~  
36 ~~a period of not more than thirty days on a showing of extraordinary~~  
37 ~~circumstances. If the court continues the initial permanency planning~~  
38 ~~hearing, the court shall include in its order the specific factual basis for~~  
39 ~~the finding of extraordinary circumstances. In this subsection,~~  
40 ~~"extraordinary circumstances" includes acts or omissions that are unforeseen~~  
41 ~~or unavoidable and that cause interruption or delay in the provision or~~  
42 ~~completion of reunification services.~~



1           Sec. 9. Section 8-862, Arizona Revised Statutes, is amended to read:

2           8-862. Permanency hearing

3           A. The court shall hold a permanency hearing to determine the future  
4 permanent legal status of the child:

5           1. Within thirty days after the disposition hearing if the court does  
6 not order reunification services.

7           2. In all other cases, ~~at the time scheduled by the court under~~  
8 ~~section 8-861, subsection C~~ WITHIN TWELVE MONTHS AFTER THE CHILD IS REMOVED  
9 FROM THE CHILD'S HOME. THE COURT SHALL NOT CONTINUE THE PERMANENCY HEARING  
10 BEYOND TWELVE MONTHS AFTER THE CHILD IS REMOVED FROM THE CHILD'S HOME UNLESS  
11 THE PARTY WHO IS SEEKING THE CONTINUANCE SHOWS THAT THE DETERMINATION  
12 PRESCRIBED IN SECTION 8-829, SUBSECTION A, PARAGRAPH 3 HAS BEEN MADE OR WILL  
13 BE MADE WITHIN THE TIME PRESCRIBED IN THAT PARAGRAPH.

14          B. At the permanency hearing, the court shall determine:

15          1. Whether termination of parental rights, adoption, permanent  
16 guardianship pursuant to section 8-872 or some other permanent legal status  
17 is the most appropriate plan for the child and shall order the plan to be  
18 accomplished within a specified period of time.

19          2. WHETHER REASONABLE EFFORTS HAVE BEEN MADE TO FINALIZE THE  
20 PERMANENCY PLAN IN EFFECT.

21          C. If the court determines that the child should remain in out-of-home  
22 placement longer than eighteen months from the date of the permanency order,  
23 the court shall conduct a review of the order at least once each year. After  
24 reviewing the order, the court may reaffirm the order or direct other  
25 disposition of the child.

26          D. If the court determines that the termination of parental rights is  
27 clearly in the best interests of the child, the court shall:

28          1. Order the department or the child's attorney or guardian ad litem  
29 to file within ten days after the permanency hearing a motion alleging one  
30 or more of the grounds prescribed in section 8-533 for termination of  
31 parental rights. The party who files the motion has the burden of presenting  
32 evidence at the termination hearing to prove the allegations in the motion.

33          2. Set a date for an initial hearing on the motion for termination of  
34 parental rights within thirty days after the permanency hearing. If the  
35 termination is contested at the initial hearing, the court shall set a date  
36 for the trial on termination of parental rights within ninety days after the  
37 permanency hearing.

38          E. If the court determines that permanent guardianship is clearly in  
39 the best interests of the child, the court shall:

40          1. Order the department or the child's attorney or guardian ad litem  
41 to file within ten days after the permanency hearing a motion alleging the  
42 grounds prescribed in section 8-871 for permanent guardianship. The party  
43 who files the motion has the burden of presenting evidence at the hearing to  
44 prove the allegations in the motion.

1           2. Set a date for an initial hearing on the motion for permanent  
2 guardianship within thirty days after the permanency hearing. If the  
3 permanent guardianship is contested at the initial hearing, the court shall  
4 set a date for the trial on the permanent guardianship within ninety days  
5 after the permanency hearing.

6           Sec. 10. Section 8-864, Arizona Revised Statutes, is amended to read:

7           8-864. Timing of motions and hearings; consolidation of  
8                           hearings

9           Notwithstanding any other statute, the court may order or permit the  
10 filing of a motion for termination or permanent guardianship before the  
11 permanency hearing is held, consolidate hearings or provide for a different  
12 order of hearings if:

13           1. The permanency hearing is held no later than the time prescribed  
14 in section 8-861 8-862, subsection C- A.

15           2. The termination hearing is held no later than the time prescribed  
16 in section 8-862, subsection D, paragraph 2.

17           3. The permanent guardianship hearing is held no later than the time  
18 prescribed in section 8-862, subsection E, paragraph 2.

19           Sec. 11. Section 36-2901, Arizona Revised Statutes, is amended to  
20 read:

21           36-2901. Definitions

22           In this article, unless the context otherwise requires:

23           1. "Administration" means the Arizona health care cost containment  
24 system administration.

25           2. "Administrator" means the administrator of the Arizona health care  
26 cost containment system.

27           3. "Director" means the director of the Arizona health care cost  
28 containment system administration.

29           4. "Eligible person" means any person who is:

30           (a) Classified as an indigent pursuant to section 11-297.

31           (b) Under federal law any of the following:

32           (i) Defined as mandatorily or optionally eligible pursuant to title  
33 XIX of the social security act as authorized by the state plan.

34           (ii) Defined as an eligible pregnant woman, and an infant under the  
35 age of one year, pursuant to section 1902(1)(1)(A) and (B) of title XIX of  
36 the social security act, as amended by section 4603 of the omnibus budget  
37 reconciliation act of 1990, and whose family income does not exceed one  
38 hundred forty per cent of the federal poverty guidelines as updated annually  
39 in the federal register by the United States department of health and human  
40 services and children defined as eligible children who have not attained  
41 nineteen years of age pursuant to section 1902(1)(1)(D) of title XIX of the  
42 social security act, as amended by section 4601 of the omnibus budget  
43 reconciliation act of 1990, and whose family income does not exceed one  
44 hundred per cent of the federal poverty guidelines as updated annually in the

1 federal register by the United States department of health and human  
2 services, and children defined as eligible pursuant to section 1902 (1)(1)(C)  
3 of title XIX of the social security act, as amended by section 6401 of the  
4 omnibus budget reconciliation act of 1989, and whose family income does not  
5 exceed one hundred thirty-three per cent of the federal poverty guidelines  
6 as updated annually in the federal register by the United States department  
7 of health and human services.

8 (iii) Under twenty-one years of age, AND who was in the custody of  
9 the department of economic security pursuant to title 8, chapter 5 or 10 when  
10 the person became eighteen years of age and ~~who has an income that does not~~  
11 ~~exceed two hundred per cent of the federal poverty guidelines as updated~~  
12 ~~annually in the federal register by the United States department of health~~  
13 ~~and human services.~~

14 (c) Classified as a medically needy person pursuant to section  
15 36-2905.

16 (d) A full-time officer or employee of this state or of a city, town  
17 or school district of this state or other person who is eligible for  
18 hospitalization and medical care under title 38, chapter 4, article 4.

19 (e) A full-time officer or employee of any county in this state or  
20 other persons authorized by the county to participate in county medical care  
21 and hospitalization programs if the county in which such officer or employee  
22 is employed has authorized participation in the system by resolution of the  
23 county board of supervisors.

24 (f) An employee of a business within this state.

25 (g) A dependent of an officer or employee who is participating in the  
26 system.

27 (h) Classified as an eligible child pursuant to section 36-2905.03.

28 (i) Not enrolled in the Arizona long-term care system pursuant to  
29 article 2 of this chapter.

30 (j) Classified as an eligible person pursuant to section 36-2905.05.

31 5. "Malice" means evil intent and outrageous, oppressive or  
32 intolerable conduct that creates a substantial risk of tremendous harm to  
33 others.

34 6. "Member" means an eligible person who enrolls in the system.

35 7. "Nonprovider" means a person who provides hospital or medical care  
36 but does not have a contract or subcontract within the system.

37 8. "Physician" means a person licensed pursuant to title 32, chapter  
38 13 or 17.

39 9. "Prepaid capitated" means a mode of payment by which a health care  
40 provider directly delivers health care services for the duration of a  
41 contract to a maximum specified number of members based on a fixed rate per  
42 member notwithstanding:

43 (a) The actual number of members who receive care from the provider.

44 (b) The amount of health care services provided to any member.

1        10. "Primary care physician" means a physician who is a family  
2 practitioner, general practitioner, pediatrician, general internist, or  
3 obstetrician or gynecologist.

4        11. "Primary care practitioner" means a nurse practitioner certified  
5 pursuant to title 32, chapter 15 or a physician assistant certified pursuant  
6 to title 32, chapter 25. This paragraph does not expand the scope of  
7 practice for nurse practitioners as defined pursuant to title 32, chapter 15,  
8 or for physician assistants as defined pursuant to title 32, chapter 25.

9        12. "Provider" means any person who contracts with the administration  
10 for the provision of hospitalization and medical care to members according  
11 to the provisions of this chapter or any subcontractor of such provider  
12 delivering services pursuant to this article.

13        13. "State plan" has the same meaning prescribed in section 36-2931.

14        14. "System" means the Arizona health care cost containment system  
15 established by this article.

APPROVED BY THE GOVERNOR APRIL 23, 2001.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 24, 2001.

Passed the House April 11, 20 01,

by the following vote: 45 Ayes,

9 Nays, 6 Not Voting

[Signature]  
Speaker of the House

[Signature]  
Chief Clerk of the House

Passed the Senate January 29, 20 01,

by the following vote: 27 Ayes,

2 Nays, 1 Not Voting

[Signature]  
President of the Senate

[Signature]  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

           day of           , 20           ,

at            o'clock            M.

            
Secretary to the Governor

Approved this            day of

          , 20           ,

at            o'clock            M.

            
Governor of Arizona

S.B. 1072

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this            day of           , 20           ,

at            o'clock            M.

            
Secretary of State

SENATE CONCURS IN HOUSE  
AMENDMENTS AND FINAL PASSAGE

Passed the Senate April 17, 2001,

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

Robert Smart  
President of the Senate  
Norma Lowe  
Ass. Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

17 day of April, 2001.

at 2:00 o'clock P M.

Sandra K. King  
Secretary to the Governor

APPROVED THIS 23 day of

April, 2001,

at 5:29 o'clock P M.

Janet N. Napolitano  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 24 day of April, 2001,

at 4:50 o'clock P M.

Patsy Gayles  
Secretary of State

S.B. 1072